IN THE HIGH COURT OF PUNJAB & HARYAN AT CHANDIGARH

R.S.A. No. 1709 of 2006
Date of decision: March 22,2007

Ramesh Kumar V. Paras Ram

CORAM: HON'BLE MR.JUSTICE VINEY MITTAL

Present: Shri Shri N.C.kinra,Advocate, for the appellant.
Shri Sachin Mittal, Advocate, for the respondent.

Viney Mittal,J.

The appellant before this court is a tenant. A suit for possession by way of eviction filed by the landlord has been decreed by the trial court. The appeal of the tenant has been dismissed by the first appellate Court.

It was claimed by the plaintiff-landlord that the sanction for raising the construction of the building in question had been granted by the Municipal Committee, Rohtak on November 7, 1988 and the construction was completed on October 27,1989. The premises in question had been let-out to the tenant on September 5,1990. On that basis it was claimed by the landlord that since a new building was exempted from the provisions of the Rent Act for a period of 10 years, therefore, the suit for possession filed by the plaintiff was maintainable before the civil court. It was pleaded that the tenancy of the defendant stood terminated with effect from February 28,1995 on service of a notice issued under section 106 of the Transfer of Property Act. Hence the suit in question was filed. The plaintiff also claimed recovery of mense profit for use and occupation of the premises.

The trial court decreed the suit filed by the plaintiff. The

appeal filed by the defendant failed before the appellate court.

The only argument raised by the learned counsel appearing for the tenant-appellant is that although the suit in question was filed by the plaintiff-landlord on April 21,1995 when the period of 10 years had not expired from the date of completion of the building but during the pendency of the litigation, the aforesaid period of 10 years having expired, the provisions of Haryana Urban(Control of Rent and Eviction) Act,1973 have become applicable and as such decree for possession against the tenant-appellant could not have been passed.

I have duly considered the aforesaid contention of learned counsel for the appellant but find no force in the same.

An identical plea raised on behalf of a tenant came up for consideration before the Apex Court in the case M/s.Kesho Ram and Co. and others etc. V. Union of India and others (1989) 3 Supreme Court Cases 151. A three Judges Bench of the Apex Court rejected the aforesaid contention. It was held as follows :

> ".....It is a matter of common knowledge that final disposal of suits before the civil court are time consuming in view of the heavy workload of cases and dilatory tactics adopted by the interested party. Having regard to time normally consumed for adjudication of a suit by the civil court, it is too much to expect that a suit filed within the period of exemption of five years can be disposed of finally within the period of exemption. The exemption contemplated by the notification permits the institution of a suit within the period of exemption. Taking into account the delay caused in disposal of the suit, it further protects the jurisdiction of the civil court in

passing decree of eviction with a view to make the exemption effective and meaningful. In this view, if the submission made on behalf of the tenants is accepted, it would render the exemption illusory, as in reality,it will be impossible for a landlord to get the suit decreed within the period of exemption even if he instituted the suit within the period of exemption. Interpretation of the Act and the impugned notification as suggested on behalf of the tenants if accepted would defeat the purpose of the beneficial social legislation. It is a settled rule of harmonious construction of statute that a construction which would advance the object and purpose of the legislation should be followed and a construction which would result in reducing a provision of the Act to a dead letter or to defeat the object and purpose of the statute should be avoided without doing any violence to the language. We therefore reject the submission made on behalf of tenants."

In view of the law laid by the Apex Court in Kesho Ram's case (supra), I find no merit in the present appeal. It is not in dispute that the suit in question had been filed by the plaintiff-landlord when the provisions of the Rent Act were not applicable to the demised premises. The tenancy of the tenant had been duly terminated by serving a valid notice. Consequently, the landlord has a right to recover the possession.

Nothing has been shown that the findings recorded by the two Courts below suffer from any infirmity or are contrary to the record.

No question of law, much less any substantial question

of law, arises in the present appeal.

Dismissed.

March 12,2007 (Viney Mittal)
sks Judge